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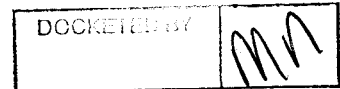
BEFORE THE ARIZONA CORPORATION COMMISSION  
RECEIVED

2 COMMISSIONERS

3 MIKE GLEASON - Chairman 2008 SEP 29 A 11: 36  
4 WILLIAM A. MUNDELL  
5 JEFF HATCH-MILLER  
6 KRISTIN K. MAYES  
7 GARY PIERCE  
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Arizona Corporation Commission  
DOCKETED

SEP 29 2008



7 IN THE MATTER OF THE APPLICATION OF DEL  
8 RIO WATER COMPANY, LLC, FOR A  
9 CERTIFICATE OF CONVENIENCE AND  
10 NECESSITY TO PROVIDE WATER SERVICE IN  
11 YAVAPAI COUNTY, ARIZONA.

DOCKET NO. W-04074A-08-0094

STAFF'S RESPONSE TO  
APPALOOSA'S MOTION TO  
INTERVENE

11 On February 15, 2008, Del Rio Water Company ("Del Rio") filed an application before the  
12 Arizona Corporation Commission ("ACC") requesting extension of service area under its current  
13 Certificate of Convenience and Necessity ("CC&N").

14 On April 21, 2008, ACC Utilities Division Staff ("Staff") filed a Sufficiency Letter in this  
15 docket.

16 On June 30, 2008, Staff filed a Staff Report recommending approval of Del Rio's application,  
17 subject to several conditions.

18 On July 28, 2008, a full administrative hearing was convened before the ACC Hearing  
19 Division. The Hearing Division determined that additional information was necessary to fully  
20 evaluate the application, and an additional day of testimony became necessary.

21 On August 8, 2008, the Hearing Division issued a procedural order reconvening the hearing  
22 on November 14, 2008. The same procedural order suspended the time clock for this matter.

23 On September 3, 2008, Appaloosa Water Company filed a request to intervene.

24 On September 12, 2008, Del Rio filed a request to delay the November 14, 2008 hearing date.  
25 Del Rio indicated that its sole member was undertaking a refinancing, and Del Rio would be unable  
26 to provide timely responses to an outstanding Staff data request.

27 On September 18, 2008, the Hearing Division issued a procedural order resetting the  
28 continued hearing date to December 22, 2008.

1 Staff hereby responds to Appaloosa's request to intervene.

2 Appaloosa has requested to intervene based upon its stated intention to serve the Del Rio  
3 Subdivision, the same subdivision at issue in the instant Del Rio application. Because a  
4 Commission-granted CC&N will result in an exclusive right to serve, free from competition, it is in  
5 the rate payers' interest to evaluate all available options and award the CC&N to the best candidate.  
6 Staff therefore believes that Appaloosa should be allowed to intervene and "compete" for the right to  
7 serve.

8 As a preliminary matter, procedure requires that in order for the Commission to consider  
9 granting Appaloosa a CC&N, Appaloosa must have formally requested a CC&N, as opposed to  
10 simply intervening in a separate CC&N matter. Therefore, it is Staff's position that as a *pre-*  
11 *condition* to intervention, Appaloosa must file a formal application for a CC&N which satisfies the  
12 requirements of A.A.C. R14-2-402. Further, that application must be made sufficient in time for  
13 Staff to fully evaluate Appaloosa's fitness to serve and to produce a Staff Report on its findings in  
14 time for the continued hearing. Only *after* the application has been found sufficient should  
15 Appaloosa then file an accompanying request to have its application consolidated with the instant  
16 matter.

17 Further, pursuant to R14-3-101 and A.R.C.P. Rule 24, the presence of Appaloosa as an  
18 intervenor should not result in "unduly delay" of the process. Staff recommends that Appaloosa be  
19 directed to file its application on or before October 15, 2008, such that it may be deemed sufficient on  
20 or before October 31, 2008. In the event Appaloosa fails to timely file an application *satisfying*  
21 *sufficiency requirements*, Appaloosa's request to intervene should be denied.

22 As an additional concern, Staff's central witness will be unavailable on the current Hearing  
23 Date of December 22, 2008. As a result, Staff requests that the hearing be slightly accelerated and  
24 rescheduled for December 18, 2008, or sooner, if possible.

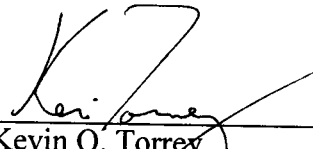
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1                   **RESPECTFULLY SUBMITTED** this 29<sup>th</sup> day of September, 2008.  
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4  
5                   By   
6                   Kevin O. Torrey  
7                   Attorney, Legal Division  
8                   1200 West Washington  
9                   Phoenix, Arizona 85007  
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12  
13  
14  
15                  Original and 13 copies of the foregoing  
16                  filed this 29<sup>th</sup> day of September, 2008, with:

17                  Docket Control  
18                  Arizona Corporation Commission  
19                  1200 West Washington  
20                  Phoenix, Arizona 85007

21                  Copy of the foregoing mailed this  
22                  29<sup>th</sup> day of September, 2008, to:

23                  Jeffrey C. Zimmerman  
24                  Moyes Storey, Ltd  
25                  1850 North Central Avenue  
26                  Suite 1100  
27                  Phoenix, Arizona 85004-4541  
28                  Attorneys for Del Rio Water Company, LLC

